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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,723	09/27/2001	Erwin Berthold	21 - 0506	2821

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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 06/09/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-3

Office Action Summary	Application No. 09/965,723	Applicant(s) BERTHOLD ET AL.	
	Examiner Shay L Balsis	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

Page 7, 6 lines from the bottom reads "The top surface 12" however, it should read –The top surface 14-.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Krusche (USPN D247075).

Krusche teaches a cleaning utensil comprising a panel having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles attached to and extending away from the bottom surface. There is a gripping member extending upward from the top surface contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Fay (USPN 2674758).

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Fay teaches a cleaning utensil comprising a panel (1) having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (15) attached to and extending away from the bottom surface. There is a gripping member (11) extending upward from the top surface contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge (4), a back edge (5), a first side edge (2) and a second side edge (3).

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenblatt (USPN 2958889).

Greenblatt teaches a cleaning utensil comprising a panel having a top surface (11), a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (15) attached to and extending away from the bottom surface. There is a gripping member (17, 18) extending upward from the top surface in an arcuate manner such that it is contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Osiecki et al. (USPN 6499175).

Osiecki et al. teaches a cleaning utensil comprising a panel (6) having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (16) attached to and extending away from the bottom surface. There is a gripping member (4) extending upward from the top surface contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge.

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Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Tyler (USPN 2432264).

Tyler teaches a cleaning utensil comprising a panel having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (12) attached to and extending away from the bottom surface. There is a gripping member (10) extending upward from the top surface contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kilburn (USPN 5987687).

Kilburn teaches a cleaning utensil comprising a panel (24) having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (26) attached to and extending away from the bottom surface. There is a gripping member (20) extending upward from the top surface contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge.

Claims 1-4, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Staagen (USPN 6081958).

Van Staagen teaches a cleaning utensil comprising a panel (12) having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (14) attached to and extending away from the bottom surface. There is a silicone gripping member (20) extending upward from the top surface contoured to the shape of

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a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge. There is further a securing means (16) attached to the panel for securing the hand to the panel. The securing means has a first end and a second end. The first end is attached to the first edge and the second end is attached to the second edge. Though the silicone member is disclosed as a knuckle pad, and the handle is disclosed as the means for holding, that is the intended use of the invention. One could put their hand under the handle gripping the silicone member wherein the handle would then act as a securing means.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearson (USPN 101307).

Pearson teaches a cleaning utensil comprising a panel (A) having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (C) attached to and extending away from the bottom surface. There is a gripping member (D) extending upward from the top surface contoured to the shape of a hand. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge. There is further a securing means (B) attached to the panel for securing the hand to the panel. The securing means has a first end and a second end. The first end is attached to the first edge and the second end is attached to the second edge.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson in view of Bean (USPN 2988049).

Pearson teaches all of the essential elements of the claimed invention however, Pearson fails to teach using a resiliently stretchable cloth material as the strap. Bean teaches a cleaning brush wherein the strap that secures the hand to the brush is an elastic material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an elastic strap on Pearson's invention to accommodate all sizes of hands and to fit the brush snugly to the hand (col. 2, lines 5-15).

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tyler in view of Bean (USPN 2988049).

Tyler teaches all of the essential elements of the claimed invention however, Tyler fails to teach a resiliently stretchable cloth securing means. Bean teaches a cleaning brush with an elastic strap that secures the hand to the brush. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an elastic strap on Tyler's invention to fit the brush snugly to the hand and prevent slippage of the brush when in use (col. 2, lines 5-15).

Claim 6 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Kilburn.

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Kilburn teaches that the gripping means is comprised of a foam material, or such, that would conform to the users hand. Silicon gel is a type of material that is resilient and would allow for conformity. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use silicon gel because Applicant has not disclosed that the silicon gel provides an advantage, is used for a particular purpose, or solves a states problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either a foam material or a silicon gel because both provide comfort and both conform to a users hand. Therefore, it would have been obvious to one of ordinary skill in the art to modify Kilburn to obtain the invention as specified in claim 6.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kilburn in view of Bean (USPN 2988049).

Kilburn teaches all of the essential elements of the claimed invention however, Kilburn fails to teach a resiliently stretchable cloth securing means. Bean teaches a cleaning brush with an elastic strap that secures the hand to the brush. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an elastic strap on Tyler's invention to fit the brush snugly to the hand and prevent slippage of the brush when in use (col. 2, lines 5-15).

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bean (USPN 2988049) in view of Kilburn.

Bean teaches a cleaning utensil comprising a panel (11) having a top surface, a bottom surface and a peripheral edge extending between the top and bottom surfaces. There is a plurality of bristles (22) attached to and extending away from the bottom surface. There is an elastic securing means (12) attached to the panel for securing the hand to the panel. The

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securing means are have a first end and second end. The first end is attached to the first edge and the second end is attached to the second end. The top surface is rectangular in shape such that the peripheral edge includes a front edge, a back edge, a first side edge and a second side edge. Bean teaches all the essential elements of the claimed invention however, Bean fails to teach a gripping member on the top surface of the panel. Kilburn teaches a foam gripping member extending upwardly in an arcuate manner from the top surface of the panel. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use silicon gel because Applicant has not disclosed that the silicon gel provides an advantage, is used for a particular purpose, or solves a states problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either a foam material or a silicon gel because both provide comfort and both conform to a users hand. Therefore, it would have been obvious to add Kilburn's gripping means to Bean's brush to add comfort and to provide a more ergonomically effective brush.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

slb

June 5, 2003



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